

THE
TRYAL
AND
CONDEMNATION
OF

George Busby,

FOR

High-Treason,

As a Romish Priest and Jesuite, upon the
Statute of 27. *Eliz.* Cap. 2.

At the Assizes and General Goal-Delive-
ry, held at *Derby*, for the County of
Derby, the 25th day of *July*, in the 33th
year of the Reign of our Sovereign Lord
King *Charles* the Second, &c.

Before the Honourable Sir *Thomas Street*
Knight, one of the Barons of his Maje-
sties *Exchequer*.

As it was faithfully taken, by a Person of Quality.

London, Printed for *Randolph Taylor*. 1681.

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COLEMAN

CHURCH

High-Tension

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THe Court being sate, and the usual Formalities preceding business over, the Panel of the Grand-Jury was called over, and nineteen of them sworn. The Names of which Gentlemen of the Grand-Jury, which found the Bill of Indictment, &c. against *George Busby*, were as follows.

1. Sir *Henry Every* of *Eggington* Baronet.
2. Sir *Robert Coke* of *Langford*, Baronet.
3. Sir *William Boothby* of *Ashborn*, Kt. and Baronet.
4. Sir *Robert Clark* of *Chilcote*, Knight.
5. *William Fitz-Herbert* of *Tiffington*, Esq;
6. *Henry Cavendish* of *Donebridge*, Esq;
7. *William Mundy* of *Darley*, Esq;
8. *John Lowe* of *Denby*, Esq;

William

9. *William Berrisford* of *Bently*, Esq;
 10. *John Allen* of *Gresely*, Esq;
 11. *William Hopkinson* of *Bonsall*, Esq;
 12. *William Lees*, Gent.
 13. *Lionel Parshaw* of *Dionsfield*, Gent.
 14. *Joseph Harpur* of *Teavely*, Gent.
 15. *John Stiffin* of *Hopton*, Gent.
 16. *Matthew Smith* of *Denby*, Gent.
 17. *John Whigly* of *Cromford*, Gent.
 18. *Paul Jenkinson*, Gent.
 19. *George Birds* of *Stanton*, Gent.
- The Indictment being brought into Court, *Billa vera*.

Clerk of the Assizes. Goaler, set *George Busby* to the Bar (which was done.)

Cl. of the Arraignment. *George Buzby*, hold up thy hand, (which he delayed to do.)

Cl. again. *George Busby*, hold up thy hand.

Which he did not do, but instead thereof, presented a Petition to the Court to this effect; that he was committed to the Goale in *March* last, for being a Popish-Priest, and that great Industry has been used to procure Witnesses to swear against him, and that having obtained his *Habeas Corpus* to be removed to *London*, the Under-Sheriff falling Sick and being since dead, the *Habeas Corpus* was not Executed; he prays he may be removed to the *Kings-Bench*, that he may have time to make his defence, he depending upon his *Habeas-Corpus*, his most material Evidence to clear him, and to prove his being an *Alian*, being then in *London*, &c.

Baron Street. Mr. *Busby*, notwithstanding I must proceed to try you, the Grand Jury having found the Bill *Billa Vera*; you say you are an *Alian*, if that be so, then you are without this Law of the 27th *Eliz*.

Busby. I had not my *Habeas Corpus*, and so am deprived of my Witnesses to prove that I am an *Alian* born.

Baron Street. If they prove you not a Native, then the Indictment falls.

Then the Clerk of Arraignments proceeded to Arraign the Prisoner.

Clerk. *George Busby*, hold up thy hand, (which he did) Thou standest Indicted by the Name of *George Busby*, late of *West-Hallam* in the County of *Derby* Clerk, for that thou being a Subject of our Sovereign Lord
the

the King that now is, and being likewise born within this Kingdom of England, was made and ordained a Priest by the Authority derived and pretended from the See of Rome after the Feast of the Nativity of St. John Baptist in the first year of the Reign of our Lady Elizabeth, late Queen of England, &c. And before the 16th day of March, in the 33th year of the Reign of our Sovereign Lord Charles the Second, of England, Scotland, France and Ireland King, Defendor of the Faith, &c. The Laws and Statutes of this Kingdom of England little weighing, nor the Punishments in the same contained not at all regarding; with force and Arms, &c. at the Parish of West-Hallam aforesaid, in the County of Derby aforesaid, being within this Ringdome of England, voluntarily, freely and Treasonably the 16th day of March in the 33th year of the Reign aforesaid, hath been and remained, contrary to the form of the Statute in that Case made and provided; and against the Peace of our Sovereign Lord the King, his Crown and Dignity, &c.

Baron Street. How sayest thou, George Busby, art thou Guilty of this Felony and Treason whereof thou standest Indicted, or not Guilty?

Busby. This Indictment, my Lord, is not full, It recites not the particular Case in the Statute of *Queen Elizabeth*, viz. That I took Orders beyond Sea, and another point, that I am a Native of the Kings Dominions.

Baron Street. You may be made a Priest in *England* by the Authority of the Bishop of *Rome*, as well at *Rome*.

Busby. How can I be made a Priest in *England* by the Authority of the Bishop of *Rome*, where there is no such Authority?

Baron Street. You must plead to your Indictment as it stands.

Busby. Then my Lord, I humbly beg I may be allowed Council.

B

Baron

Baron Street. If any point in Law arise you shall be allowed Council.

Busby. The time and place is not specified in the Indictment.

Baron Street. If that be so 'tis material, but upon View of the Indictment, 'twas found right.

Cl. of Arraignments. *George Busby*, hold up thy hand, Art thou Guilty of this Indictment, or not Guilty?

Busby. (Then holding up his hand) said, not Guilty.

Cl. of Arraignments. *Culprit.* How wilt thou be Tried?

Busby. By God and my Country.

Cl. God send thee a good Deliverance.

Baron Street. Now we will see if your Objections be of any weight, you hear the Indictment read, which was *Ut Ante*, being a Subject of the Kings, born within this Realm, you may be made a Priest by the Authority of *Rome*. in *England*, *Ireland*, or *Germany*, or any where elce, and that will make you a Priest within this Law.

Busby. I am no Native, I was born beyond the Sea.

Baron Street. Your being a Native, is matter of Fact and must be proved.

Busby. My Lord, I move I may have right of Challenging the Jury.

Baron Street. Sure we must have the Jury before us first, before you can Challenge any of them.

So the Jury being called, *Busby* challenged peremptorily near the number allowed by the Law, *viz.*

John Burrows Gent.

Henry Goodyer Gent.

John Hawksworth Gent.

Thomas Cockayn Gent.

Cornelius Dale Gent.

Thomas Wetton Gent.

Thomas Wingfield Gent.

William Kirkland Gent.

John Agan Gent.

Henry Wild Gent.

Thomas Ccason.

James Dawson.

John Rose.

William Salt.

John Hurd.

John Stone.

Robert Rowland.

Robert Cooper.

Edward Ridge.

William Alsop.

James Cooper.

John Wallat.

Gregory Seele.

The Kings Council did except against two persons only, *viz.* *Robert Doxey*, *Christopher Holmes.*

Baron

Baron *Street*. Have a care Mr. *Busby*, at your Peril, if you challenge peremptorily above the number of 35.

The Names of the Petty-Jury sworn,

- | | |
|------------------------|-------------------------|
| 1. Samuel Ward, Gent. | 7. George Tricket Gent. |
| 2. Tho. Wilson, Gent. | 8. Jeremiah Ward. |
| 3. John Steer. | 9. John Roper. |
| 4. John Ratcliff. | 10. John Creswel Gent. |
| 5. Ed. Wolmestly Gent. | 11. Edmund Woodhead. |
| 6. William Horn Gent. | 12. Anthony Bowne. |

Then Mr. *Bridges* Council for the King opened the Indictment.

Mr. *Bridges*. May it please your Lordship and the Gentlemen of the Jury, the Prisoner at the Bar *George Busby*, stands Indicted for High-Treason, as it is Alledged in the Indictment, that he being born within the Kings Dominions and made a Priest, and having received Orders by pretended Authority from the See of *Rome*, did the 16th day of *March* last come into the Realm of *England*, as 'tis laid in the Indictment, to *West-Hallam*, in the County of *Derby*, and there he did abide, contrary to the Form of the Statute, and this is laid to be Traiterously done. To this he hath Pleaded not Guilty; and we are to prove it upon him, by the Kings Evidence, whom we are now to call.

Mr. *Coombes*. (A Council for the King.)

Gentlemen of the Jury, you have heard the Indictment read and opened, you will presently have it fully proved, and highly aggravated by our Evidence, for Gentlemen, we shall prove that the Prisoner at the Bar, is not only a Popish-Priest, but a Jesuite, and this by his own Confession; and that his Name was inserted in Sir *William Wallers* Warrant, when he came down into this Country to search for Jesuites. That he has held a secret and dangerous Correspondence with *Harcourt*, *Ireland*, and other Popish Traytors. That he has been their Procurator, and disbursed and received great sums of money for them.

Gentlemen, the Prisoner hath been a person highly

ly suspected, as well as dangerous to the Government for some years, for Treasonable matters of another Nature, than he stands Indicted of, have been deposed against him upon Oath at the Council Board and thereupon a strict Warrant to Apprehend him was directed to Mr. *Gilbert*, (a worthy Gentleman and Justice of Peace of this County) Mr. *Gilbert* Gentlemen, will presently tell you the manner of his taking him in an obscure place in the Roof of one Mr. *Powtrels* House at *West-Hallam*, in this County: but here I must beg leave to digress, for I cannot but take notice of the malicious temper and base Practices of this sort of Men, for though Mr. *Gilbert* acted by virtue of a VVarrant from the Lords of the Council, and has since received an approbation from his Majesty of what he did, under the hand of a Secretary of State, yet could not those people forbear to raise false and scandalous Reports of, and make false Accusations against him, upon this very account; but what is it they will not do to discourage Protestant Magistrates from doing their Duty against them? I confess nothing is to be wondered at, since the barbarous Murder of Sir *Edmund-Bury-Godfrey*. But to proceed, Gentlemen, we shall also prove to you that the Prisoner is so little a friend even to the Civil-Government of this Nation, that he would not suffer his Nephew Mr. *Powtrel* to take so much as the Oath of Allegiance, which is scrupled only by the Jesuites, for I think their secular Priests will generally take it. Gentlemen, the things I have already opened, are matters of high Aggravation, and come in by way of Indictment. But that which in this case we rely upon is this, that the Prisoner has Baptized, Married, Confest, and absolved in the Popish way, that he has given the Sacrament, and said Mass very frequently in his Popish Vestments, and for proof of this we have a Cloud of VVitnelles.

Gentlemen, you hear the Prisoner is Indicted upon a Statute made in the 27th *Eliz.* which makes it Treason for any Subject born to take Orders from the See of *Rome*, and afterwards to remain in *England*, which Law I conceive was not only made for the security of the Government, but also in favour of the Lay-Papists themselves, for though several Statutes were made to keep them within the bounds of their Allegiance and to secure the Government from their Villanous Designes; yet

yet it was experimentally found true, that no Dangers or Penalties whatsoever, could deter or hinder them from Plotting against the State, in order to bring us back again to the slavery of *Rome*: whilst those juggling managers of their consciences were suffered to come amongst us. and therefore I may well call this statute upon which the Prisoner stands indicted, an Act of Charity, to the common Papists, for it was made to prevent the dangers, they would otherwise run themselves into, as well as the Nation, 'Tis true indeed, Gentlemen, that the lively execution of this Law has (by the Clemency of our Princes and good nature of the Government) been many times suspended, and might yet have continued in the shade, had not the popish priests and Jesuits roused up this sleeping Lyon against themselves by a damnable & hellish plot against his Majesties life, the true Religion and well established Government of this Nation, the reality of which has been confirmed to us, not only by the unanswerable evidence of *Colemans* papers, and other loyal proofs, but also by frequent Proclamations, and the Uniform votes and Resolutions of several Parliaments: I may therefore very well borrow the words of a great Man upon the like occasion, and say that at this Time of the Day its much better to be rid of one Priest than many Fellons: And therefore Gentlemen, if our Evidence shall make good the Indictment, I hope you will do your King, your Country and your selves the right to find the Prisoner Guilty.

Mr. *Coombes*. We shall call our evidence.

Call Mr. *Gilbert*, (who was sworn,)

C

Pray

Pray tell my Lord and the Jury what you can say concerning the Prisoner at the Bar.

Mr. Gilbert. My Lord, I dwell within two miles of Mr. *Powtrells* house at *West Hallam* the place where the Prisoner was taken, and have heard that he hath been a priest in that Family six or seven years, though I did never know him personally, nor to the best of my knowledge ever saw him till I apprehended him, which was the sixteenth of *March* last, the very day on which the Judges went out of *Derby* the last Lent Affizes; the first enquiry I made after him was occasioned by a Letter and a Messenger from Sir *Simon Degg* about *November* 1678, at which time I sent a Warrant to the Constable of *West-Hallam* to search for the said *George Busby*, but he could not then be found, at that time it was reported that he was a Jesuit and concerned in the plot, which I had reason to believe, because when Mr. *Gray* came to search Mr. *Powtrells* house for some Jesuits the *January* following, by Order from the Lords of the Council (in which service he commanded me to attend him) we perceived Mrs. *Powtrell* (who is *Busbys* Niece) to be much troubled, and in great passion, the cause whereof Mr. *Powtrell* declared to be for fear the said search was made for her Uncle *Busby*, who as I heard afterwards was then in the house, though at that time was reported to be fled.

However the Government had a jealous eye on this *Busby*, above two years ago, as may appear by a Warrant from the Lords of the Council, which warrant I have ready and humbly pray your Lordship it may be read openly in Court.

Bar: Street. Let it be read.

Clerk

Clerk 'Whereas Information hath been given
 'to his Majesty in Council upon Oath that *George*
 ' *Busby* late of *West-Hallam* in the County of
 ' *Derby* is a reputed Priest and Jesuit, and has
 ' had a considerable part in the late Conspiracy
 ' against the life of his sacred Majesty, and the
 ' peace of the Government, these are therefore to
 ' will and require you to repair to the place a-
 ' foresaid, or where ever else the said *George Bus-*
 ' *by* shall be found, and him to seize and appre-
 ' hend, and convey to the next County Gaole,
 ' there to remain in close Custody, until he shall
 ' be delivered by due course of Law. And all
 ' Mayors, Sheriff, Justices of the Peace, Con-
 ' stables, and other his Majesties Officers and lo-
 ' ving Subjects are to be assisting unto you in the
 ' Execution hereof, as they will answer the con-
 ' trary, for which this shall be your Warrant,
 ' Dated at the Council-Chamber in *White-Hall*
 ' the 19th. day of *March*, 1678.

| | |
|---------------------------|-------------------------------|
| Indorsed, to <i>Henry</i> | <i>Worcester, Sunderland,</i> |
| <i>Gilbert Esq;</i> at | <i>Clarendon, Essex,</i> |
| <i>Lockeo</i> in the | <i>Ailsbury, Folconbridge</i> |
| County of <i>Derby</i> . | <i>H. London.</i> |

John Nicolas.

(Then *Mr. Gilbert* proceeded.)

Mr. Gilbert. My Lord, I received this Order
 on *Saturday* the 22th. day of *March*, 1678. And
 on *Sunday* Afternoon I sent to *Mr. John Bagnall*
 of *Derby*, who was then Undersheriff, requiring
 him to meet me early on *Munday* the 24th. at
Mr. Powtrells house at *West-Hallam* about some
 earnest business lately sent down from the *Lords*
 of the Council, wherewith I would acquaint him
 at

at our Meeting. as soon as he came I shewed him the Warrant, after which we searched very diligently in every place we could see, but could not find him; though afterwards I was informed he was in the House at that time also.

About *August* 1679. Mr. *Powtrel* obtained a Licence from his Majesty to Travel beyond-Sea, and it was confidently reported by the Papists, that this Mr. *Busby* was gone over too, in somuch, that when Sir *William Waller* came into these parts in *January* 1679. with Warrants to search for Jesuites (In one whereof I saw *Busbys* Name) and would have searched at *Hallam*. I dissuaded him, and did assure him I believed he was gone beyond-sea, and told him how often I had searched for him in vain, whereupon, Sir *William Waller* diverted to another place, though I have been informed since, that *Busby* was never out of *England*, since the discovery of the Plot.

But about *Christmas* last, and since, I haveing had notice that *Busby* was in *England*, and particularly at *West-Hallam*, and had been seen last Corn-Harvest to walk in Mr. *Powtrels* Garden with one *Ann Smally* a Widdow. I thought it my Duty to make some further enquiry after him, which I did on the first day of *March* last, and came to the House to buy some Wood for my Cole-pits, and then brought five or six persons with me, and sent for the Constable to help me to search for him, which we did most part of the Afternoon, but could not find him, though he was seen to be walking in the Garden with the said *Ann Smally* when I came first into the House, as I was afterwards informed, but when

I asked the said *Ann Smally* for him, she affirmed with many Protestations, that he was in *Flanders*, and not in *England*, and that if I had any business with him, I must go beyond-Sea to him, for she had not seen him for above two years; though she had helped to convey him out of the Garden into his hiding-hole, but a few Minutes before. However, I proceeded in my search, and found in the Chamber where *Busby* Lodged, a *Crimson-Damask Vestment*, wherein was packed up a Stole & Maniple of the same (as the Papist call them) an Alter Stone, Surplice, and a Box of Vassers Mass-Books, and divers other Popish things, then I told Mistress *Braylsford* (a kinswoman of Mr. *Powrals*) and the said *Ann Smally*, those things did signify that a Priest belonged to the House, for the Book had lately been used, as was apparent by the String which was put betwixt two Leaves whereof *Festa Februarij* was on the one side, and *Festa Martij* was on the other side, but they stiffly affirmed that no Priest had been there of above two years before, and feared me when I could not find him, and said if there was a Priest in the House, why did not I take him?

VWhen I had done searching and could not find him, I took away the Vestment, and other things which I brought to the Assizes a Fortnight after, and did ask Mr. Justice *Charlton* (who came that Circuit) his opinion what I should do with them; he told me they must be burnt according to Law; I intreated his favour, that I might send them again to the same place, for two or three days to make the Priest more confident, that I might better Apprehend him; he told me he could give no such permission, but insisted, that they ought to be destroyed.

VWhen all the business was done at the Assizes on the Crown side, (where I was obliged to attend) on *March* the 15th day at Night, I went to the Judge again, and craved his Lordships Pardon for presuming to send back the Popish things contrary to his Opinion, but acquainted him that I intended to go after them to *West-Hallam* that Night, and if I could not catch the Priest, I resolved to bring the same things again; and after I had asked his Lordship some Questions, and received his Directions, I came to my own house, and went about eleven

of the Clock at night (with some Company to assist me) to *Hallam*, and set two Men to Watch in the Garden, and one in the Church-yard (joyning to another side of the House,) to see if they could spy any Light, or hear any Walking, in the Lofts or false Floores, when I made a noise on the other side of the House. I sent a Man before to call up the Constable, and when he and two or three more came, I knockt at Mistriss *Ann Smalley's* Window, about twelve of the Clock in the Night, and said aloud, *Mistriss Smalley, open the Doors, I am come to search for a Popish Priest*; She started up, and said, *Who was there?* I told her, *It was I, she knew me well enough, I dwelt at Lockco.* Then I staid a pretty space of Time, and called aloud to her again, and spoke the like Words, but by that time, I suppose she and her Bedfellow Mistriss *Braylesford*, were gone to give the Priest Notice, and to help him to his hiding hole, for no body answered me; then after a pretty space, I called to her a third time, *And required her in the Kings Name to open the Doors, for I was come to search for Busby the Jesuite, who was a Traitor by Law, and if she would not open the Doors, I would cause the Constable to force them open*; and when I could have no Answer from her, I went to *Joseph Dudleys* Chamber Window, and called there, Charging him in the Kings Name to open the Doors, but no Answer at all was returned, for he also was gone into the Priests Chamber, and found *Ann Smalley* busy in helping *Busby* to secure himself, as the said *Joseph Dudley* did afterwards inform me.

After I had stay'd about a quarter of an hour, I commanded the Constable in the Kings Name to break the Doors open, which was done; and when we came into the Priests Chamber I found the Fire had been lately extinguished, the counterpain and the Blankets laid in confus'd heaps on the Bed, and some part of them warm and some part cold: the upper part of the Feather-Bed was cold, which I wondered at, then I put my Hand underneath and the Bed was warm; for they had turn'd it. I looked for the Pillow, Sheets, Cap, &c. but *Ann Smalley* (as I was afterwards informed) had taken them into the Chamber where she lay. I asked her divers Questions about the person, that had layn in that Bed that Night, and particularly, Whether or no it was not *Busby*? She told me, Nobody had

had layn in that Bed that Night, I told her I was sure some person had layn there, for the Feather-Bed was warm on the under side : She took many Protestations, That no body had layn thereof divers Nights before : I replied, if she would discover the person who had layn there, it would save her and me much trouble : But when all I could say, would not prevaile, I told her, I must search, for I was confident, That *Busby* was in the House, because she would not declare who it was that lay there.

I began to search about one of the Clock, and continued till after ten next Morning before I could find Him : and though the Watchers in the Garden, told me, They heard his Paces and Steps very plainly amongst the Lofts and false Floores, and described on the out-side of the House the place where they last heard him, within the space of nine and ten Foot where he was hid : yet were we almost so many hours before we could find him.

At last when the Searchers were almost all tyred, *Ann Smally*, and others of the Family Scoffed at us, and asked, *What have you not found him yet, you said there was a Priest in the House, why do you not find him then ? Why do you not take him ?* I said, *All in good time, I was resolved to find him, or starve him out :* Nay, the Foot-boy of the House, seeing my Servant look within the Kitchin Chimney, where there hung a Port-Mantua, said Jeering to my Man, *Look if he be not in the Port-Mantua.*

After those persons had pleased themselves a good while with Mocking us for our disappointment, I perswaded two or three of the Searchers once again to Climb upon the Lofts (which I could not do my self, by reason of a Lameness in my Shoulder,) and to look well near the place where *Busby's* last steps were heard. Which when they had done some while and found nothing, I took my Sword and Scabbard, (being in the Rooms underneath) and Knocked on the Plaster-floores over my Head, and caused them to Answer me with the like Knocking as near the same place as they could, and when we had examined the Floores, in this manner, I Knocked near unto a Stock of three Chimneys, but they could not Answer within a Yard,

I knock'd again in two or three places near the Chimneys, yet still they could not Answer near those places, but told me there was nothing but Tiles and Roofing, I bid them break open those Tiles, which they did and espied under them a wooden Door, and a little Iron Hinge, I bade them break the Door, then one of the searchers put in his hand, into a little hole that was broken in the Door and felt a Hat, then he told me some body was in that place, for a Man had thrown his hand off the Hat, then I caused them to break open the entrance, which when they had done, *Busby* spoke to them, and desired them to be civil; when they told me what he said to them, I charged them to be civil to him, and bring him to me, which they did. Then I arrested him in his Majesties Name, for High-Treason, and after he had refreshed himself a little, I told him he must get on his Boots, and prepare himself to go to *Derby*.

Soon after his Apprehension, (I perceiving him to be a little dismay'd) I encouraged him, and said, he should have all the favour a person in his circumstances could expect, for I told him I understood he was a Gentleman of a good Family in *Buckinghamshire* or *Oxfordshire*, and that his Brother lived at *Coddington* in *Oxfordshire*. which he acknowledged, and thanked me for my Civility.

I was so well satisfied that we had apprehended him, after much tedious watching and searching, that I never thought of sending any Man to look what was in the hiding-hole with him, but after an hours stay, or thereabouts, I took him away from *Hallam* between eleven and twelve a Clock on the 16th of *March* last, and brought him to *Derby* between one and two of the Clock where, after I had taken his Examination, I made a Mittimus and Committed him to *Derby-Goale*.

On Saturday following, I writ a Letter to *Oxford*, to the Right Honourable the Earl of *Comway*, one of his Majesties principal Secretaries of State, informing his Lordship of the apprehending and commitment of *Busby*, and inclosed a Copy of his Examination, to which his

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his Lordship writ me a Letter in Answer, that he had acquainted his Majesty with my Proceedings, who did very well approve of what I had done.

Busby. My Lord I am an Alian born at *Brussels*.

Baron-Street. Was your Father of that place? It is a very good Family.

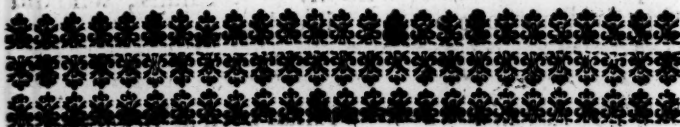
Busby. My Father lived at *Coddington*, my Mother was an *Heirils*, and here is an *Affidavit* ready to be produced of what Children my Father had before he went beyond-Sea, born at *Coddington*, out of the Register of that place, I have had no time to bring a particular Certificate where I was born, and what other Children my Father had beyond-Sea; my Father went over about the beginning of the Troubles, and I am about forty years of Age.

After the Judge had told *Busby* of the Act for Naturalisation.

Says *Busby*. I suppose (my Lord) that Act may stand good as to Privileges of the Subject, but not as to Penalties.

Baron Street. Yes as to all Intents and Purposes.

E Anno



Anno XXIX.

Caroli II. Regis.

An Act for the Naturalizing of Children of his Majesties English Subjects, Born in Foreign Countreys during the late Troubles.

W Hereas during the late unhappy Troubles in England, which began in the year of our Lord One thousand six hundred forty one, and continued until the time of His Majesties most happy Restauration, divers of His Majesties English Subjects, as well of the Nobility as others, did either by reason of their Attendance upon His Majesty, or for fear of the then Usurped Powers, reside in parts beyond the Seas out of His Majesties Dominions, and it may hereafter become difficult to make proof of the occasion of such their residence; Now for preventing of all Disputes and Questions that may arise, whether the Children of such His Majesties Subjects of this Realm are Natural born Subjects of our Sovereign Lord the King, and to express a due sense of the merit of all such Loyal persons, as out of their duty and fidelity to His Majesty and His Father of Blessed

Blessed Memory, did forego, or were driven from their Native Country,

Be it Declared and Enacted by the Kings most Excellent Majesty, by and with the Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, That Charles Gerard, and Elizabeth Gerard Children of the Right Honourable Charles Lord Gerard of Brandon, Trever Wheler, and Dorothy Elizabeth Wheler Children of Sir Charles Wheler Baronet, Anne Ravenscroft the Wife of Edward Ravenscroft of Bretton in the County of Flint Esquire, one of the Daughters of Sir Richard Lloyd Knight deceased, born at Calice in France, and all other persons who at any time between the Fourteenth day of June in the said Year of our Lord One thousand six hundred forty one; and the Four and twentieth day of March in the Year of our Lord One thousand six hundred and sixty, were born out of His Majesties Dominions, and whose Fathers or Mothers were Natural born Subjects of this Realm, are hereby declared, and shall for ever be esteemed and taken, to all intents and purposes, to be and to have been the Kings Natural born Subjects of this Kingdom; and that the said Children, and all other persons born as aforesaid, and every of them, are and shall be adjudged, reputed, and taken to be and to have been in every respect and degree, Natural born Subjects, and Free to all intents, purposes and constructions, as if they and every of them had been born in England.

And be it further Enacted and Declared by the Authority aforesaid, That the Children, and all other persons as aforesaid, and every of them, shall be, and are hereby enabled and adjudged able, to all intents, constructions and purposes whatsoever, as well to demand, as to have and enjoy any Titles of Honour, Manors, Lands, Tenements and Hereditaments, and all other Privileges and Immunities belonging to the Liege people and Natural Subjects of this Kingdom, and to make his or their resort or pedigree, as heir to his, their or any of their Ancestors, Lineal or Collateral, by reason of any Descent, Remainder, Reverter, Right or other Title, Conveyance, Legacy or Bequest whatsoever, which hath, may or shall descend, remain, revert, accrue, come or grow unto the said Children, the or persons born as aforesaid, or any of them as also to have and enjoy all Manors, Lands and Tenements

ments, or other Hereditaments, by way of Purchase or Gift of any person or persons whatsoever; as also to prosecute, pursue, maintain, avow and justify all and all manner of Actions, Suits and Causes, and all other things to do as lawfully, liberally, freely and fully, as if the said Children, and the persons born as aforesaid; and every of them, had been and were Born of English Parents within this Kingdom, or as any other person or persons born within this Kingdom may lawfully in any wise do; any Law, Act, Statute, Provision, Custom, or other thing whatsoever, had, made, done, promulged, proclaimed, or provided, to the contrary thereof in any wise notwithstanding; Provided always, That no person, other then the persons expressly named in this Act, shall have any benefit thereby, except such person shall within seven Tears next ensuing, Receive the Sacrament of the Lords Supper, and within one Month next after such Receiving the Sacrament, take the Oaths of Allegiance and Supremacy in some of His Majesties Courts at Westminster, and deliver into the Court at the same time, a Certificate of such his Receiving the said Sacrament, and then make proof thereof by Witnesses to be examined viva voce upon Oath.

And be it further Enacted, That no person or persons, other then the persons expressly named in this Act, shall have any benefit thereby, until he or they shall have Received the Sacrament, and made proof thereof by Certificate and Witnesses, and taken the said Oath in manner aforesaid.

And for the better manifestation and proof of such qualifications as may Entitle any person to the benefit of this Act, which in process of time may be very hard to be proved; Be it further Enacted, That any person having Received the Sacrament, and made proof thereof by Certificate and Witnesses, and taken the said Oaths within the time aforesaid, in any of his Majesties Courts, in manner aforesaid, shall and may be admitted to make proof of such his qualification in the said Court by Witnesses viva voce to be examined upon Oath; and if he shall make proof thereof to the satisfaction of the said Court, he shall thereupon have a Certificate thereof under the Seal of the said Court, to be likewise Enrolled in the said Court, and for ever after upon shewing such Certificate or Enrolment thereof, every such person shall have full benefit of this Law, as if he had been therein expressly named.

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Bar. *Street*, Then you are a Natural born Subject by the late Act of Parliament ; whereby it appears that all Persons born abroad in the late Troubles, who went out of the Kingdom by reason of their sufferings for the King, are made Natural born Subjects , as it born here.

[*Then Joseph Dudley was called and Sworn.*]

Bar. *Street*, *Joseph Dudley*, do you know the Prisoner at the Bar, look upon him?

Joseph Dudley, I have known him these Six years and more, to belong to Mr. *Powtrells* at *West-Hallam*, to whom I was for that time a Servant, where he Officiated as a Priest, and was kept to do that Office; where I have heard him say Mass, Preach, Pray, and have seen Ten, Twenty, or Thirty, or more at a time before him in the Chappel there, when he hath Officiated with his Priestly Robes upon him; and likewise seen Children brought to be Christened by him, others to be Catechised, which he frequently did, as if he had been a Parish Priest, but with what Privacy he could, and I my self have taken care of the doors at such times, which care they left to me, though I was not of their opinion; yet upon my promising to be so, they did repose that trust and confidence in me.

Bar. *Street*, Tell us what you know concerning Mr. *Busbys* being an Alien, as he pretends, which I cannot believe.

Jos. Dudley, He tells you that when the Civil Wars were here in *England*, his Father and Mother with their Family, went beyond Sea, where he was born; but my Lord, in discoursing with my Master and others of the late Wars, I have heard Mr. *Busby* relate what hapned to their Family in those times, and that their house was often plundered, and his Father and Mother living at *Coddington* in *Oxfordshire* (as he tells you) the first time the Souldiers came to plunder the House, he was about Two years old or more, and being frightened at the Souldiers, he hid himself behind the Bed in the Curtains, so that while they were there, none of the House knew where to find him, which made them be-

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lieve that the Souldiers had taken him , or made him away , but when the Soldiers were gone , his Mother and some of the Family lamenting for him in her Chamber , he hearing them , appear'd ; so that with great joy they received him. My Lord , I think the place was *Coddington* , where he tells you his Mother lived , and that it was hers , she being an Heiress. At least I am very certain I have heard him speak of the place where he was born , to be in or about *Oxfordshire* , I think it was *Coddington* ; for it is the place where Mr. *Charles Busby* his Eldest Brother now liveth , and he saith , that from thence his Father and Mother went Beyond Sea.

Busby , When did you hear me discourse any such thing as you have related , and with whom ; you speak this by hear-say , do you not ?

Jos. Dudley , Several times with my Master and others , as I said before , when they have been talking how some Families have been ruined by the great oppressions of those times , some being Plundered , others Sequestred , and forced to leave their Estates and Friends , which you said was your Mothers Case , for their great sufferings forced them to go from their own house : And my Lord , when he was about Five years old , he did also say that he could remember Souldiers coming again to Plunder , and he being at that time in the Garden or Orchard , he did hide himself in the Hedge , where he did continue till they were gone , and then he came forth when it was late in the Evening , but his Mother nor any of the Family knowing where he was , did very much fear they had lost him ; but when he came to them they were not a little joy'd : but after this they went immediatly beyond Sea , and took him with them , where his Mother continued several years , and had several Children there , the which I have heard her say of her self , and of her being at *Brussels*.

Bar. Street , Mr. *Busby* the Evidence says that you told a Story of your Mothers house being Plundered , and how you hid your self in the Curtains , when you was Two years old , and in the Garden Hedge , when Five years old , for fear of the Souldiers , and that soon after

after your Mother went beyond Sea, where she had several Children, which your self told, from your own mouth, and he had it not from other People.

Bar. Street, But Mr. Dudley, What can you say, as to his being a Priest or Jesuit?

Jos. Dudley, My Lord, My Master and his Family, and all Papists that were acquainted with him, ever owned him to be a Jesuit; and several of them have many times told me so: Besides he himself hath owned that he was of the Society of Jesus, particularly one time, when I should have been his Convert; telling me, *While I was out of the True Faith, I could not be saved; and there was no way to be saved, but by Believing the Catholick Church, which was the Roman Catholick, as Tradition makes appear; for God help me; I was a poor Heretick, and led by weak and blind Pastors; for they had their Religion only from Calvin and Luther, and every silly Fellow was made now a Preacher of the Gospel before he understood it: but that he and all Jesuits were Fifteen years labouring in their Studies and Degrees before they came to be Ordained.*

Busby, I pray you where and when was it I said all this to you?

Jos. Dudley, In the Gardens at West-Hallam, where my Master Mr. William Powtrell and Mrs. Anne Smalley, after great perswasions sent me to you; and told me they had sent you before: and that I should find you there where I did. And your first Discourse was of the Gardens, withal giving me a Description of the Gardens of the Jesuits Colledge in Liege, where you did (as I remember) own your receiving Orders. Besides I have heard my Master, Mrs. Smally, Mrs. Winnifred Attwood, and George Harrison (who lived in the Colledges beyond Sea) own it. And your self said, *That Mr. Evers my Lord Aston's Priest (who had been with you at West-Hallam) was your Master and Tutor, when as I think you were a Scholar at St. Omers.*

Busby, How long do you say you have lived at West-Hallam?

Jos. Dudley,

Jos. Dudley, Betwixt Six and Seven Years.

Busby, When was that I talked of the Gardens at the Colledge of *Liege*? And whether I told you I was a Jesuit, when I spoke of *Leige* Gardens? What time was it, what year?

Jos. Dudley, I cannot say the time, but 'twas since I lived at *Hallam*, and 'twas when you perswaded me to be a Catholick.

Busby, You take a compass of Six years, this is a meer story; pray what were my Arguments?

Bar. Street, You were about to Convert him, and then you told him this; 'tis enough you have endeavoured to make him change his Religion, but it seems your Arguments were not of so much weight as to be remembered.

Busby, I pray you, was I ever with you alone, to tell you I was a Jesuit? Let me know the year and time, and what induced me to say so?

Jos. Dudley, I cannot satisfy you when the Discourse was, but I have been alone with you in the Garden a hundred times and more; when you did satisfy me that you was a Jesuit, was the time, when you did move me to be of your persuasion; the which I did so far condescend to; that ever since there was none in the Family more trusted than I; for, my Lord, I did give them all the assurance that might be, of being of their Religion, but the times being troublesome, and the fear of disobliging my Friends, particularly one or two, who had the care and management of a house of mine (which was then in trouble) that I durst not consent, yet my seeming inclination did very much please them, and they did so far credit me, that my Master did intend (as he told me) to take me beyond Sea with him, nor did I know the contrary, till I was upon the Road for *Dover*, and then he told me that his Uncle *Busby* was Inserted in the Pass (by the name of *Thomas Jackson*) which he shewed me; but he having no mind to go, stayed in *England* (and for the most part at *Hallam*) so that my Master commanded me back, to look after his Affairs there: And for some time before he was to return, he said he would send for me over. Ever since he left *Hallam*,

Hallam, Mr. *Busby* hath continued privately there, for none besides Mr. *George Brent* and my self and the women of the house, were suffered to know of him; nay some of his Relations who have lain in the house, have not known but that he was beyond Sea, though they were Papists, yet he would not suffer them, but concealed himself.

Busby, I pray will you tell me what day; month, or year it was, you and I had this Discourse you speak of; and tell me how it came that I was so familiar with you?

Bar. Street, What need you impose it upon him, when he saith he hath lived with you Six years and more: He cannot remember it, but he tells you that it was in the Garden, where he has been with you an hundred times and more, not thinking further of it; 'tis impossible to satisfy you the particular time, therefore why do you ask him such a foolish question?

Busby, I desire you will let me know how you, as you pretend, come to know I was a Jesuit?

Jos. Dudley, Sir, it is what you know to be truth, and I am sure you cannot but remember, it was in the Walk at the head of the Orchard, where you was before me expecting my coming to you, and did then use all the perswading means that might be to confirm me in your Opinion; in which I seemed so well satisfied, that you told me you would leave me to consider of it, but that I ought to forsake my Friends, and whatever else, to come to God Almighty, of which you did not doubt; but bid me be careful, for delays were dangerous: And my Lord, as to his being a Jesuit, he did own it when my Master was committed to Prison for refusing the Oaths of Supremacy and Allegiance: (for he was then private at *West Hallam*) without saying, in his Conscience he ought not to take them, for their Church would not allow it, but on the contrary did expressly forbid it: nevertheless Mrs. *Powtrel*, Mr. *William Powtrel*, and divers of the Family did argue for his so doing, especially after Mr. *Thomas Cannynge* came from *St. Thomas* in *Stafford-shire*, and said that his Uncle *Fowler*, he, and all belonging to him, had taken the Oath of Allegiance:

And that it was the Opinion, and with the consent of Mr. *Fitter* their Priest, that they might do it, and for that reason Mr. *Cumyng* came to advise my Master the like: but Mr. *Busby* did reject the motion, and said no Secular Priest could give leave so to do, and for his part he was absolutely against it, and so was all the Society: But if Seculars gave too much liberty, he would not be guilty of their fault; so when all would not prevail with him, then Mrs. *Powtrel* and I went to Mr. *William Brent* at *Fox Coat* in *Warwick-shire*, her Grand Father, and Mr. *Busbys* Father-in-Law a Councillor, to have his advice; and upon his writing several Letters to my Master, and Mr. *Busby*, that it was proper for my Master so to do, nor could he avoid it; then in compliance to Mr. *Brent*, he did not much oppose the taking of the Oath of Allegiance: And those Letters, the next night after Mr. *Gilbert* had taken Mr. *Busby*, Mrs. *Smally* (for fear he should find them) did burn, but shewed them to me as she was looking over many papers more, the most of which, she did likewise burn.

Mr. *Gilbert*, For your Lordships and the Juries further confirmation, that the Prisoner is a Jesuit as well as a Priest, and that he held a dangerous Correspondence with some of his Order, which have been Executed for their Treasons in relation to the Plot: I must acquaint your Lordship that this *Busby* was Procurator for the Jesuits, and that he received the Rents of their Lands, from 1673 till 1677, and that he disbursed and returned several great Summs of Money to divers Jesuits, as may appear by Letters, and his Account Book, which I took; where may be seen what Dealings and Transactions he had with *Gawen*, *Harcourt*, *Turner*, *Ireland*, *Pool*, *Bennet*, *Heaton*, *Tomson*, and others of his Tribe: He could not deny it to be his own hand writing.

My Lord here is the Book.

(Which was presented to the Judge and Perused by him) Then Mr. *Gilbert* proceeded.

My Lord, I did also search at *West-Hallam* House for

for Popish Priestly Garments, (and being well informed that there were such in the House) and found divers Suits of Vestments and other Popish Trinkets, which I brought away; together with those I formerly sent back from the last Assizes; all which I have ready in Court to be produced, and have also a Minister here (who has formerly been a Popish Priest himself) to inform your Lordship the names and use of all the Particulars; here are also (my Lord) a Box of Wafers, which I suppose they use for the Sacrament at the Mass, the larger sort I am told are for the Priests use, the lesser for the People; and here are the Wafer Irons which made them.

Mr. *Sheppey*, Pray tell my Lord and the Jury the Names of all those Things, and how the Priest useth them at Mass.

Mr. *Sheppey* taking up the Things, said, *My Lord, this is a Vestment used when the Mass is said, this is a Stole, and this is a Maniple, and this an Antependiana*: And so gave an Account of the rest of the Trinkets.

[*Then Thomas Houis was called and sworn.*]

Bar. *Street*, What can you say, Friend, of the Prisoner? See if you know him, look upon him.

Thomas Houis, I know him well enough, he perswaded me to be a Roman Catholick, when I was about to marry a Mans Daughter that was a Papist; whom I could not have, until I turned to their Religion. Mr. *Buffy* perswaded me, and when he had converted me, bound me to believe that Matrimony was a Sacrament; he gave me Absolution, and made me do Pennance; the words of the Absolution I cannot pronounce, but I have been several times at Mass when he said it, when I had Absolution from him, after Confession I was to say these words:

For all which, and whatever else I cannot at this present call to mind, I am heartily sorrow for, for the love of God; and purpose by Gods Grace to amend, beseeching you my Ghostly Father

Father to Pray to God for me , and to give me Absolution and Pennance.

Afterward you know you marryed me , and I was Cited to *Lichfield* Court for being marryed privately by you. My Lord , I have been present when Mr. *Busby* said Mass at *West-Hallam* , and have heard and seen him say Mass several days in his Priestly Robes : I never knew any other Priest but him at *West-Hallam* ; most Sundays and Holy days he said Mass , where were present most of the Roman Catholicks in those parts ; I have heard him Preach three times , and no more.

Busby, Did I come to you , or you to me ?

Tho. Houis, I came to you.

Busby, Then I did not perswade you to turn Catholick , you was satisfied upon the first perswasion before you came to me , and declared you would turn Catholick.

Tho. Houis, I was perswaded by Mr. *Shirborn* of *Standly Grange* , yet not fully convinced but by you.

Mr. *Gilbert*, My Lord , this *Shirborn*, he speaks of , was one Captain *Shirborn* a great Papist who lived near me , a Letter Carrier (as was reported) and one that sold them Books and Trinkets.

Tho. Houis, For I was fully satisfied then in all things by your instructions, and hearing your Sermons ; as for Mass, I did not understand it , but you said it was Mass ; besides, others called it so.

Busby, How can you swear to a thing you do not understand ?

Tho. Houis, If I did not , you told me so , and I believed you , because you did the Office of a Priest.

Bar. *Street*, It seems this is the matter, you courted a Papist for your wife , and *Busby* told you the way to have her was to be a Papist , and you did hearken to *Busby* to perswade you ; he told you Matrimony was a Sacrament , and before you were married, you must be Confest , and have Absolution ; and Mr. *Busby*, you put words into his mouth to desire Absolution , but gave it in such language as he understood

not :

not, he says he has heard you say Mass frequently: But Preach only three times.

Busby, It is an easie matter for him to say such things, but how does he prove it to be Absolution or Mass, when he says he understands not the Language?

Tho. Houis, My Lord, I have not only been present at that which they call their Mass, but I have also received the Sacrament from Mr. *Busby* then, and have seen him give the Sacrament to divers other persons too, and besides, my Lord, I did send my Eldest Child to the Chappel at *Standly Grange* to have it Christened by Mr. *Busby*: This Woman (pointing to *Sarah Clark* who stood by) carried it: When we came there, Dr. *Richard Needham* (who lived there) said to me, Are you the Father of this Child, I answered yes: Then says Dr. *Needham*, you ought not to be present when your Child is Christened; whereupon, my Lord, I went into a corner of the Room, but could perceive well enough what was done, and Mr. *Busby* did Christen my Child, and gave her the Name of *Ann*, Mr. *Peter Waldron* was Godfather, and Mrs. *Ann Smally* Godmother.

Kings Council, We shall now call *Elizabeth Evans* for further proof of Mr. *Busby's* exercising his Priestly Office: (Who was also Sworn.)

Bar. Street, Come good Woman, what can you say of the Prisoner at the Bar, do you know him?

Eliz. Evans, Yes, I know the Prisoner at the Bar, its Mr. *Busby*, my Lord, and have seen him in his Priestly Habit say Mass, in the Chappel at Mr. *Powtrel's* House at *West Hallam*, I saw him Christen *Henry Avery's* Child of *Stanton*, I was Godmother to the Child; He has Confest me several times; and I have received Absolution from him: I have received the Sacrament from him.

Bar. Street, What was it he gave you, when you received the Sacrament from him?

Eliz. Evans, I know not what it was Mr. *Busby* gave me.

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[Then the Waffers were called for ; they were of several sizes in a Box.]

And being shewed to her, she said, yes my Lord, these are what he gave us at Mass for the Sacrament ; I remember them, they were just such.

Busby, Waffers are things usually put under Biskets and Macaroons, therefore how can she say those are the Sacrament, for they are what I have seen given to Children to eat and to play withal.

Bar. Street, They are things indeed to give to Children.

Kings Coun. Pray call *Dorothy Saunders*.

(who appeared, and was Sworn.)

Bar. Street, Well *Dorothy Sanders*, what say you ?

Dorothy Saunders, He has several times absolved me, and given me the Sacrament, and has said Mass, where the company were sometimes more, and sometimes less ; (and having a Waffer given her into her hand) and he held up the Waffer thus [and shewed the Court and the Jury the manner of his Elevation of the Host] and being asked by the Judge whether she knew Priestly Vestments ? (Answered)

Dorothy Saunders, Yes I know Priestly Vestments when I see them (which being shewed to her) she said she had seen *Busby* in some of them ; but for his Christening of Children, I know nothing of that.

Busby, Is that the Sacrament ? Those Waffers in the Box, is that the Sacrament ?

D. Saunders, We took it at your hands for the Sacrament.

Bar. Street, Mr. *Busby* you are so Impertinent in your Questions, you think you have weak persons to deal with, I hope the Jury will take notice of it.

Kings Council, Call *Sarah Clark*.

(who appeared and was Sworn.)

Bar. Street, *Sarah Clark*, have you heard Mr. *Busby* say Mass ?

Sa. Clark, Yes my Lord, that which he told us was Mass,

Mafs, but I did not understand it, for it was in another tongue, which they said was *Latin*.

Bar. *Street*, But had he his Vestments on, or how was it, tell us good Woman?

S. Clark, Yes, my Lord, he had Vestments on, and he did then give us the Sacrament as he called it, which was a Wafer, and that he put into our mouths after that he had Elevated the Host: And he himself told me it was the Sacrament.

Bar. *Street*, Well and have you made Confession to him, and has he Absolved you after you have done so?

S. Clark, I have been at Confession before him upon my knees, and when I had done he spoke something to me in *Latin* (as I think) which he said was Absolution, and I did take it to be so, and I have sometimes my Lord, heard him Preach, and that I understood, because it was in English. He told me what Absolution was, and the Mafs, and the same was to be read in English, and those that could read, at those times said the same.

Bar. *Street*, Several Witnesses have spoken closely that he has exercised his Office in all things as a Priest, have you known him marry any Body, and Christen Children, if you have speak?

S. Clark, My Lord, he did not marry me, one Mr. *Gavan* married me, but I have heard that he did marry *Thomas Houis*, and I am sure he did Christen *Thomas Houis* his First Child, for I carried it to him; and Mr. *Waldron*, and Mrs. *Ann Smally* were Godfather and Godmother, and he did name it *Ann*; it was Christened at *Standly Grange* at Dr. *Needhams* House, and several others were there at the same time, and afterwards I brought it home.

Busby, How do you know it to be Mafs and Absolution, when you say you do not understand the Language I spoke in?

S. Clark, Though I did not understand what you said, you told me what every thing meant, and I did believe you, because others told me so too; besides all Papists thought it their duty (as you told us) to be there all Holy days and Sundays, to prevent a Venial Sin, which if we omitted we were lyable to Pennance.

Mr. *Gilbert*,

Mr. *Gilbert*, My Lord, We have three or four more Witnesses, but we are loath to trouble your Lordship and the Court with any further Testimony of this nature; hoping the matter of the Indictment has been fully proved against the Prisoner, and if your Lordship please we will rest here.

Bar. *Street*, I suppose the Jury will believe there has been sufficient Evidence given to convict him; but Mr. *Busby* what can you say for your self?

Busby, *Joseph Dudley* tells your Lordship how I should tell a Childish Story of hiding my self in the Curtains, when I was Two years old; pray my Lord, consider how I could remember what I did at two years old; I know not how I could. I have told your Lordship I was born beyond Sea, I am sure I was bred there; I hope your Lordship will not take notice of an hearsay; my Mother went beyond Sea at the beginning of the Troubles, not after, 'twas before *Edge-Hill* Fight. As to what *Houis* says, he himself does acknowledge, that he does not understand what Language I Absolved him in, nor the language of the Mats, and therefore he cannot swear to it; and for ought I know as to his being married, it was in a priviledg'd place, and could not be Cited to *Litchfield* Court; and for what the other Witnesses says, their Evidence is only that they heard something read in an unknown Language, usually Women Pray in an unknown Language, and those Publick Prayers were only Family Duties; they swear not what it was, because they understand it not.

Bar. *Street*, I believe not one in a hundred understands your Prayers that hear them; else they would not be so juggled by you.

Busby, There are Vespers and Mattins, and Evensong; he does not distinguish what it was that vvas said, by reason 'twas in an unknown Language to him; it was only Family-Duty. I can produce a Witness to prove it, that Women do Family-Duty in an unknown Language.

Bar. *Street*, I know Women do not Officiate in your Church.

Busby, He swears my Lord, to what he does not understand. As

As for *Elizabeth Evans*, she swears concerning saying Mass, and understands not one Service from another, and this proves not particularly my Priestly Office.

Bar. *Street*, Mr. *Busby*, you forget Christening *Avery's* Child, and *Houis's* Child, Confessing, and Absolving divers persons, the material Evidence: You onely offer some little Diversions.

Busby, *Dorothy Saunders* knows not what she swears, nor *Sarah Clark*, none of the Witnesses can distinguish one service from another, they cannot therefore swear what was, and what was not; giving of Bread is not the Priestly Office, they do not swear positively to my exercising the Priestly Office, other persons wear those Garments as well as Priests: those things are Monuments and Heyre-Loomes to the Family, they were taken out of Churches in former times at the Reformation: There are now to be seen in the Cathedral at *Tork* Church Stuff and Vestments, which are kept for Antiquity, and so were these.

Bar. *Street*, Mr. *Sheppey* has been a Priest, and he knows the use of those things as well as you.

Busby, My Lord, those things Lay-men do wear as well as Priests, I desire to call a Witness to prove it.

Bar. *Street*, You may if you will, but to what purpose?

Busby, Pray call *Robert Needham*.

[*Who was called, and appeared.*]

Bar. *Street*, Well *Needham* do you know these things?

(*The Vestments being shewed unto him.*)

Robert Needham, I have had these things on my self, my Lord, and have said my Prayers in them, and have thought my Prayers more acceptable when I had them on; and I have seen them used by others several times.

Busby, More wear them that are Lay-men, then such as are Priests.

Bar. *Street*, *Needham*, it seems you wore them whilst you said your Prayers, that they might be more acceptable?

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R. Needham,

R. Needham, Such like Vestments are worn by Laymen in several places.

Busby, I desire one *Mr. Charles Umphrevill* may be called, to speak to my being an Alien born.

[*Who being called for the Prisoner, was not sworn.*]

Charles Umphrevill, To *Mr. Busbys* being an Alien, I have known *Mr. Busby* several years, and I have heard his Mother and Brother affirm he was born at *Brussels*. And I have an Affidavit from the Register at *Coddington* of all their Children born in *England*, and we do not find *Mr. George Busbys* name in the Register.

Bar. Street, How can you be sure of that? You ought to have brought the man along with you, to testify it.

Charles Umphrevill, My Lord, the Sexton is an old man above Sixty years of Age, and could not come, but he made Affidavit of it, which is here.

Bar. Street, That does not signify any thing at all, that Affidavit cannot be allowed, for he might be born there, and yet not Registered; but what makes you say we? What makes you concerned?

C. Umphrevill, I say we, because I was one of those imploy'd to get *Mr. Busbys Habeas Corpus*.

(*Upon Mr. Umphrevills being at a stand, and Busby directing him to tell what he had seen beyond Sea.*) *The Judge taking notice thereof, said,*

Bar. Street, What would you have him say *Mr. Busby*? tell him.

C. Umphrevil, I have seen Cannons beyond Sea, wear such Vestments, that are not in Orders: I have seen Children wear them, and they I am sure are not in Orders.

Busby, I call *Mr. Mayo* to prove that I am not a Natural born Subject of the Kings.

Bar. Street, (Come Sir, though you are not upon your Oath, yet you must tell us the truth, as faithfully as if you were.)

Edward Mayo, I have searched the Register at *Coddington*, and I do not find *George Busbys* name, the Prisoner, Registered; I have searched all the Books, and I find no Register of him.

Bar. Street, An hundred Children may be born in
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in that Parish within this 20 years, and not Registered: All that are Baptized, are Registered only.

Busby, Mr. *Mayo*, satisfy me Lord of the disappointment I had of my *Habeas Corpus*, which you got for me.

Bar. Street, To what purpose: but Mr. *Busby* you shall not say but I will hear him; what say you *Mayo*?

Ed. Mayo, My Lord I was employed about an *Habeas Corpus* for Mr. *Busby* in *Easter Term* last, and did obtain one for him then, but by reason of some slackness it was presently out of date, and so became ineffectual. Also in *Trinity Term*, I procured another *Habeas Corpus* for him, which was delivered to the under Sheriff of this County of *Derby*, who was then very Sick at *London*, of which Sickness he dyed there at last, and that *Habeas Corpus*, for that reason did likewise fall short, by which disappointments Mr. *Busby* is not so prepared for his Tryal at this time as otherwise he might, if he had not really depended upon his being removed to *London* by *Habeas Corpus*.

Bar. Street; All this is too little to the purpose, for if he expected to have had his Tryal there, and was prepared for it a Term or two ago, how comes it to pass he is not prepared now? Come, come Mr. *Busby* what can you say more?

Prisoner, I could not be Born at *Coddington*, I was Born beyond Sea, out of the Kingdom. My Lord, here is not one word proved of the Substance of the Indictment, not a word proved that I took Orders beyond Sea, nor here, from any person that saw me take Orders; not a word of that proved: Nor not a word of the Substance of that Statute of *Queen Elizabeth*, which I am Indicted upon; only some few Women say they heard me pray in an unknown Language, which was no more then Family-Duty, and I can produce a Witness that Women say their prayers publickly in an unknown Tongue, and all answer; and by these Circumstances I am accused for being a Priest.

Bar. Street; I find Mr. *Busby* you understand the Law, but pray you, Is the Sacrament given by Women? And is Absolution given by Women?

Busby, If they understand not the Language, they understand

understand not the Thing: Treason may be spoke in French, and I know it not to be so.

Bar. Street. Then it seems no man can prove a Priest, that does not understand the Latine Tongue.

Busby. None of the Witnesses has Sworn that I gave Absolution, nor that I said Mass, but in an unknown Tongue. What they have said are only Circumstances, and do not prove the Indictment; and what they say I I did, are things that are performed by those that are not Priests. I offer it again to your Lordships, Consideration that I have not been proved a born Subject of the Kings. I was deprived of my *Habeas Corpus* which was detained in the Sheriffs Hand, and so lost the Benefit of it, (those things are material) and have not had time to produce Witnesses that I was not born in *England*, but beyond Sea: at *London* I could have got Evidence to prove that; and here has been no proof made of that, but a story told of me when I was a Child: I have proved that my name cannot be found in the Register at *Coddington*. For the rest I have not had time; if I had had the benefit of my *Habeas Corpus*, to have been Tried at *London*, I had Friends there that could have proved me born beyond Sea: This *Dudley* that appears an Evidence against me, was a Servant of Mr. *Powtrelles*, who was gone away upon disgust; he sent out of the Garden several loads of goods, and now he comes to swear against me, I am verily confident that he carried away above Three Horse load of goods that he carried privately out of the Garden, of Plants and such things, and sent them all away.

Mr. Gilbert, My Lord, they were his Cloaths, and other things of his own, which he took with him when he went away.

Bar. Street, All this signifies nothing, if it be proved; but bring what Witnesses you will to prove it.

Busby, I hope your Lordship will consider that I am an Alien born, and that by the loss of my *Habeas Corpus* I had not time to bring my Witnesses; and that the Prayers I said were only Family Duties: I hope that will be considered; and that those people that have Sworn I said Mass and Absolved, do not know what Mass is, nor Absolution. My Lord here is nothing proved of the Indictment against me. *Bar. Street*

Bar. Street, You have said all this six times over, if you have nothing farther to say in your defence, I must sum up the Evidence to the Jury.

Bar. Street, You of the Jury, The Prisoner at the Bar, *George Pusby*, stands Indicted of Treason upon the Statute of XXVII *ELIZ. Cap. II.* the principal Branch whereof is this:

And be it further Enacted by the Authority aforesaid, That it shall not be lawful to or for any Jesuit, Seminary Priest, or other such Priest, Deacon, or Religious or Ecclesiastical Person whatsoever, being born within this Realm, or any other of her Highness Dominions, and heretofore, since the said Feast of the Nativity of St. John Baptist in the First Year of her Majesties Reign, made, ordained, or professed, or hereafter to be made, ordained, or professed, by any Authority or Jurisdiction, derived, challenged, or pretended from the See of Rome; by or of what Name, Title, or Degree soever the same shall be called or known, to come into, be, or remain, in any part of this Realm, or any other her Highness Dominions, after the end of the same Forty days, other then in such special cases, and upon such special occasions only, and for such time only, as is expressed in this Act: And if he do, That then every such Offence shall be taken and adjudged to be High Treason. And every person so offending, shall for his Offence be adjudged a Traitor; and shall suffer, lose, and forfeit, as in case of High Treason.

Bar. Street, This makes every Offender against this Statute a Capital Offender, and guilty of High Treason; now whether he is within this Law, you are to consider? Mr. *Gilbert* has told you that he is a reputed Priest and Jesuit, in the Neighbourhood, and that as such he had an Order from his Majesty to apprehend him. He used his endeavors to take him for some time,

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but could not apprehend him, till the Sixteenth of *March* last, and then he found him; but in such an obscure Hole, that no body would hide himself in, but such an extraordinary Offender. Innocent people do not obscure themselves in that manner. *Joseph Dudley*, to prove him a Native and not an Alien, tells you, That when Souldiers in the time of the late Wars, came to plunder his Fathers House, he heard him say, That at Two years old he hid himself in the Curtains in his Mothers Chamber for fear of the Souldiers. But (says the Prisoner) my memory could not serve me at Two years old to retain what I did then. But our Parents tell us what we did then. If a Man be asked, What age are you of? No man can tell, but as his Parents tells him. My Father told me I was Six years old, and from thence I remember it. His Father and Mother were not out of *England* (as appears) till about 1646, and then the War was ended; and the Prisoner confess'd himself to be about Forty years of Age, which shews him born in *England*. He that but observes his Language, will find that the Tone of the English Language remains with him. One born in *Wales*, (though he come young from thence) he will have a Welsh Tone as long as he lives. The Prisoner tells you, That no man has proved his being in Orders of the Church of *Rome*, nor where, when, or by whom, made a Priest: But if all that were to be proved, it would make the Law idle and insignificant. If he be made a Priest in *England*, 'tis as much as if made at *St. Omers* or *Rome*. He did own to *Joseph Dudley*, That he was made a Jesuit, and laboured to make a Convert of him in the Garden, when he was alone with him. The next was *Thomas Houis*, who courted a Woman, and must not have her, unless he turn'd Roman Catholick. *Busby* must discourse him, and make a Convert of him. He hears *Busby* preach three times, and heard him say Mass several times; and was not only married by him, but has been Confess'd and Absolved by him divers times. But *Busby's* fallacious Argument has no weight in it, That because he understands not Latine, therefore he proves it not Mass, nor other Services of the Church of *Rome*. *Dorothy Saunders* speaks to the same purpose, That he

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Confess'd and Absolved her. And she tells you, That she has seen him elevate the Host, and has shewed you the manner how; and he gave her the Sacrament, which she and the rest took from him, as the Sacrament. And that she has seen him officiate in some of the Robes produced in Court. *Sarah Clark* speaks to the same purpose, and so did *Elizabeth Evans*. But *Busby* says, Because this was done in an unknown Tongue, they cannot swear it; and that he is no Priest, because they do not swear where, and when, he received his Orders. Whoever does exercise that Profession, we do believe him of that Church. When a Minister of our Church preaches or officiates, we do not say, Pray let us see your Orders first; but if he officiate usually as a Priest, 'tis taken for granted that he is one. He can tell where he received his Orders, but it may be cannot produce them upon all occasions. Must he therefore be no Priest? Upon the whole, if you believe the Witnesses or any two of them, you are to find the Prisoner Guilty; I believe you have had full Evidence, go together and consider of it.

[*The Jury went forth, and after a short stay came back into the Court.*] And then

Clerk, Gentlemen of the Jury, Have you agreed on your Verdict?

Jury, Yes.

Clerk, Who shall say for you?

Jury, The Fore-man.

Clerk, *George Busby*, Hold up thy Hand, Look upon the Prisoner.

Clerk, Do you find *George Busby* Guilty of the High Treason and Felony he hath been Arraigned of, or not Guilty?

Fore-man, Guilty.

Clerk, And so you say all?

Jury, Yes.

Clerk, Look to him Jailor.

Bar. Street, Though I must pass Sentence upon you of Course, the Jury having found you Guilty; yet I must tell you, That His Majesty hath Commanded me to Reprieve you from Execution. [*Then*

[*Then Mr. Bar. Street passed Sentence.*]

Bar. Street, That you the Prisoner now at the Bar be conveyed hence to the place from whence you came, and that you be conveyed thence on a Hurdle to the Place of Execution; where you are to be hanged by the Neck: that you be cut down alive, that your Privy Members be cut off, your Bowels taken out and burnt in your view; that your Head be severed from your Body; that your Body be divided into four Quarters; which are to be disposed of at the Kings pleasure: And God of his infinite mercy have mercy upon your Soul.

To the Right Honourable the Lords Commissioners of the Treasury.

Derb. fs.

WHEREAS His Majesty by Royal Proclamation dated the 12th day of November 1679, was graciously pleased to promise and add to the reward of Twenty pounds, the sum of Four score pounds more; in all One hundred pounds, to any person who should discover and apprehend any Popish Priest or Jesuit. And His Majesty doth appoint by the said Proclamation the Lords Commissioners of the Treasury, or the Lord High Treasurer of England, to pay the same accordingly without delay or abatement; as in and by the said Proclamation at large it doth appear. Now know all whom it may concern, That at the Assizes and General Goal Delivery of Our Sovereign Lord the King, held at Derby on Monday the 25th of July last past, in and for the said County, before us Sir Edward Atkyns Knight, and Sir Thomas Street Knight, Justices of Assizes, and other the Justices of Our said Sovereign Lord the King for the said County, That George Busby Clerk, was indicted for that he the said George Busby being a subject of Our Sovereign Lord the King, born in the Kingdom of England, and a Priest ordained by Authority derived from the See of Rome, continued in England against the Statute in that case made and provided: Upon which it was then and there fully proved that the said George Busby was both a Priest and Jesuit. Whereupon he was legally convicted and attainted of High Treason, as in and by the Record of the same may fully appear. These are therefore humbly to certifie, That it likewise appeared to the said Court, then and there, that Henry Gilbert Esq; one of His Majesties Justices of the Peace for the said County of Derby, was the person that did discover and apprehend him the said George Busby, for the Felonies and Treason aforesaid. In witness whereof, and at the request of the said Henry Gilbert, that he may receive the said reward of One hundred pounds, pursuant to His Majesties said gracious Proclamation, we have hereunto set our hands this 27th day of July, in the Three and thirtieth year of the Reign of Our Sovereign Lord King Charles the Second, over England, &c. Annoq; Dom: 1681.

Edward Atkyns.
Thomas Street.

F I N I S.

